REMARKS

After entry of this amendment, claims 6, 7, 9-16, 19, 20, 22-25 and 27-56 will remain in this case.

Claim 8 has been objected to for incorrect grammar.

Claims 1-3, 5, 6, 8-12, 14, 15, 17-19, 21, 22 and 24 have been rejected as anticipated by the patent to Daniel (U.S. Patent No. 6,001,118). Claims 4, 7, 13, 16, 20 and 23 have been rejected as obvious over Daniel in view of the Grayhack patent (U.S. Patent No. 4,611,594). Claims 25-27 have been rejected as anticipated by Boyd (U.S. Patent No. 5,738,652).

Independent claims 6, 10, 15 and 19 have been amended to clarify that the generally funnel surface is an outer, distally facing, generally funnel surface as shown in figures 6-8. Claims 6 has been amended so that the blood flow blocking element corresponds to the corresponding element in claim 15. Claim 25 has been amended to incorporate the substance of claim 26 and now recites "forming an outer, distally facing generally funnel surface ... ". New claims 29, 35, 38, 44, 48 and 52, which recite the blood flow blocking element may comprise a braided-style blood flow blocking device, and new claims 33, 42 and 56, which recite "providing a self-expanding, braided-style blood flow blocking device", are supported by the original disclosure at paragraph 53 and figures 2-8. According, no new matter is added by this amendment.

The Cited Art

With the patent to **Daniel**, deployment of the embodiments of figures 13A-17B by a push/pull arrangement uses a mandrel 132 (figures 13A-13B). Figures 13A, 13B are described as having a tube 124 with slots 128 at a distal region covered by a mesh 130. A mandrel 132 extends through tube 124 and is attached to the distal end of tube 124. The device of figures 13A and 13B of Daniel is an emboli capturing system with a proximally facing mesh funnel surface designed to permit blood flow therethrough.

The figure 14A device is similar to the figures 13A-13B device except that struts 142 are completely covered by mesh 144. Mesh 144 has mesh portions 146, 148. The distal end of mesh portion 148 is secured to the distal end of tube 124 while they proximal end of mesh portion 146 is joined to tube 124 at a position proximal of struts 142. Distal mesh portion 148 has a tighter mesh than proximal mesh portion 146.

The Cited Art Distinguished

Independent apparatus claim 10 is directed to an occluder including a blood flow blocking element. This is in contrast with the Daniel patent which is directed to an emboli capturing system configured to permit blood flow therethrough; therefore Daniel does not disclose or describe a blood flow blocking as defined by claim 10. That is, Daniel does not disclose an occluder as presently claimed. In addition, the structure of Daniel does not include an outer, distally facing, generally funnel surface as now recited by claim 10. Therefore, claim 10 is not anticipated by Daniel.

It would not have been obvious to modify Daniel to make mesh 130 a blood flow blocking element because doing so would make the resulting device ineffective at capturing emboli because blood, and emboli therewith, would not flow through the device. Also, rearranging mesh 130 to be distally facing would not have been obvious because there would have been no way to remove any emboli that may have been captured therein. Therefore, claim 10 would not have been obvious over Daniel alone or in view of the cited art.

Independent apparatus claim 19 is allowable same reasons as claim 10.

Independent method claims 6 and 15 are allowable for the same basic reasons as claim 10.

Independent apparatus claim 22 is directed to an occluder including a blood flow blocking element. This is in contrast with the Daniel patent which is directed to an emboli capturing system configured to permit blood flow therethrough; Danielle is not directed to an occluder. Therefor, Daniel does not disclose or describe a blood flow blocking as defined by claim 22. Therefore, claim 22 is not anticipated by Daniel. It would not have been obvious to modify Daniel to make mesh 130 a blood flow blocking element because doing so would make the resulting device ineffective at capturing emboli because blood, and emboli therewith, would not flow through the device. Therefore, claim 22 would not have been obvious over Daniel alone or in view of the cited art.

Independent method claim 25 is directed to a method for deploying and occluder including inserting a catheter having a blood flow blocking element. This is in contrast with the **Daniel** patent which is not directed to an occluder but rather to an emboli capturing system configured to permit blood flow therethrough; therefore Daniel does not disclose or describe a blood flow blocking as defined by claim 1. In addition, **neither the structure of Daniel nor the structure of Boyd** discloses or suggests the step of forming an outer, distally facing, generally funnel surface as now recited by claim 25. Therefore, claim 25 is not anticipated **by Daniel or by Boyd**. It would not have

been obvious to modify **Daniel** to make mesh 130 a blood flow blocking element because doing so would make the resulting device ineffective at capturing emboli because blood, and emboli therewith, would not flow through the device. Also, rearranging mesh 130 to be distally facing would not have been obvious because there would have been no way to remove any emboli that may have been captured therein. Therefore, claim 1 would not have been obvious over Daniel alone or in view of the cited art. It would not have been obvious to modify the balloon of **Boyd** to have an outer, distally facing, funnel surface because (1) there is nothing in Boyd suggesting that capturing emboli would be desirable, and (2) there would have been no way to remove any emboli that may have been captured therein if such a modification were possible. Therefore, claim 25 would not have been obvious over either Boyd or Daniel alone or in view of the cited art.

The dependent claims are directed to specific novel subfeatures of the invention and are allowable for that reason as well as by depending from novel parent claims.

In light of the above remarks and the amendments to the claims, applicant submits that the application is in condition for allowance and action to that end is urged. If the Examiner believes a telephone conference would aid the prosecution of this case in any way, please call the undersigned at (650) 712-0340.

Respectfully submitted,

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